

REMARKS

In the Office Action, claims 14 and 21 are objected to under 37 C.F.R. § 1.75(c).

Claims 12, 13 and 20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Briese *et al.* (U.S. 2004/065796; hereafter “*Briese*”).

Claims 14, 21, 22, 25 and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Briese*.

Claims 12-14, 20-22, 25 and 26 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5 and 44 of copending application no. 10/895064

Claims 13, 14 and 21 are herein cancelled without prejudice to accelerate prosecution of the case.

Claims 1-11, 15-19, 23, 24 and 27-29 are herein cancelled as non-elected claims.

Claims 12, 20, 22, 25 and 26 are herein amended.

No new matter has been introduced by the amendments.

Claims 12, 20, 22, 25 and 26 are pending in the case.

Reconsideration of the present application in view of the foregoing amendments and the remarks below is respectfully requested.

Claim objections

Claims 14 and 21 are objected to under 37 C.F.R. § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claims 14 and 21 are herein cancelled. Accordingly, the objections to these claims are now moot.

However, Applicants respectfully submit that when one skilled in the art refers to "a gene", it does not limit its nucleotide sequence to those regions of the gene that are actually translated, but also includes non-translated regions as well as regulatory sequences located at upstream and downstream of the open reading frame of the gene.

Accordingly, the objections of these claims were not proper in any case.

Claim Rejections under 35 U.S.C. s 102

Claims 12, 13 and 20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Briese *et al.* (U.S. 2004/065796; hereafter "Briese").

Claim 13 is herein cancelled and the rejection thereof is now moot.

Claims 12 is herein amended to recite that the sample is contacted with a specific nucleic acid molecule consisting essentially of the nucleotide sequence of SEQ ID NO:2475, 2476, 2480 and/or 2481.

Furthermore, claim 20 is herein amended to recite that a set of primers consist essentially of the nucleotide sequences of SEQ ID NOS:2475 and 2476, respectively.

None of these sequences are disclosed in *Briese*. Therefore, amended claims 12 and 20 are not anticipated by *Briese* and the rejections of claims 12 and 20 under 35 U.S.C. § 102(e) as being anticipated by *Briese*, should be withdrawn.

Claim Rejections under 35 U.S.C. § 103

Claims 14, 21, 22, 25 and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Briese*.

Claims 14 and 21 are herein cancelled and, therefore, the rejections of these claims are now moot.

Specifically, the Office Action states that “[t]hese claims differ from *Briese* in that *Briese* did not teach these specific oligonucleotides. However, since *Briese* suggests any nucleotide of 10-30 nucleotides, it would have been obvious to use any sequence of this length from the N gene or adjacent noncoding region as a primer, such as the primers recited in these claims.”

Applicants respectfully traverse the rejection.

As the Examiner acknowledges, *Briese* does not teach or suggest the specific sequences of the oligonucleotides. Even though *Briese* broadly discloses that any nucleotide of 10-30 nucleotides of the N-gene region and/or the 3' non-coding region of the SARS-associated coronavirus genome can be used for primers for determining the presence or absence of SARS-associated coronavirus in a biological sample, certain regions of N-gene can be more accurate or efficient to detect the virus than other regions of N-gene. For example, the present specification has clearly shown that SEQ ID NOS:2480 and 2481 can effectively amplify the 225 bp fragment of the N-gene region that shows no homology to other coronavirus (see page 67, lines 6-12, of the

present specification). Thus, these specific sequences recited in claims 22, 25 and 26 are not obvious by such a broad disclosure by *Briese*.

Accordingly, Applicants respectfully request that the rejections of claims 22, 25 and 26 under 35 U.S.C. § 103(a) as being unpatentable over *Briese* be withdrawn.

Nonstatutory Double Patenting Rejections

(1) Claims 12-14, 20-22, 25 and 26 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5 and 44 of copending application no. 10/895064.

Claims 13, 14 and 21 are herein cancelled and, therefore, the provisional rejections of these claims are now moot.

Upon allowance of claims 12, 20, 22, 25 and 26, Applicants will file a terminal disclaimer to obviate the rejections.

(2) Claims 12-14, 20-22, 25 and 26 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over at least claims 75, 136-138, 146, and 166-170 of copending application no. 10/808121.

Claims 13, 14 and 21 are herein cancelled and, therefore, the provisional rejections of these claims are now moot.

Upon allowance of claims 12, 20, 22, 25 and 26, Applicants will file a terminal disclaimer to obviate the rejections.

No fee is believed to be due for this submission. Should any fee(s) be required, please charge such fees to Deposit Account No. 50-2215.

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Respectfully submitted,

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